

### **REMARKS**

In the Office Action dated December 6, 2010, claims 18-26 and 28 and 30-35 are pending in this application, and all are rejected. Reconsideration is requested for at least the reasons discussed hereinbelow.

The above amendment adds recitations from claim 31 into claim 18. Claims 31 and 35 are cancelled. Also, Claim 30 is amended to correct clerical errors. Entry of this amendment is requested. No new issues are raised by this amendment.

The **inventive concept** of the sports device of claim 18 is to **provide** for both a **whole body training** (cf. p. 4, last para., in particular 2<sup>nd</sup> sentence) **and improved exercising possibilities** (p. 5, 1<sup>st</sup> para., 3<sup>rd</sup> and 4<sup>th</sup> line), in particular **new training possibilities** in the field of coordination and balance suited for **rehabilitation purposes** (p. 2, 2<sup>nd</sup> para., 2<sup>nd</sup> sentence and ultimate sentence), owing to the following special combination of features:

- i) **handles in form of a hoop and/or loop, respectively attached close to the body ends** of the elongated body, wherein
- ii) said handles are formed of a stretchable element made of an **elastically stretchable material**, which is attached respectively to the elongated body.

Claims 18-24, 26, 28 and 30-35 are rejected under are rejected under 35 U.S.C. §103(a) over Beasley (U.S. 4768774) in view of Halsworth (U.S. 6949035). In the previous Office Action, which is incorporated in this rejection, the Examiner admitted at least that Beasley fails to disclose “the handle being formed by a hoop and/or loop, the handles separately attached, a tube inserted through the body in the borings and the dimensions of the body.”

Applicant does not agree that arguments were made individually against the cited art. Applicant addressed the combination and lack of teachings in the combination of references.

Beasley does not disclose elastically stretchable handles as set forth in claim 18 (and cancelled claim 31) but, instead discloses **rigid**, that is **non-elastic**, grips 14 formed as conventional **handgrips** 42 (col. 4, 1<sup>st</sup> para.; Figs. 1 and 2). Further, grips 42 of Beasley do not accommodate a foot (feet) (see Figs. 4-8). Hence, Beasley **neither provides for, nor suggests the present inventive concept** set forth above.

Furthermore, there is **no incentive** for a person of ordinary skill in the art to combine the teaching of Beasley with that of Halsworth. Rather, for at least the following reasons, Halsworth would not have been considered by the person of ordinary skill. But, even if considered, Halsworth would not lead the person of ordinary skill to the sports device according to claim 18 with its special handle construction, either.

Halsworth discloses a sports training device having a yoke 18 (alternatively, yoke 418) attached to the distal end of a bat (cf. col. 1, l. 63-65). However, **yokes** 18 and 418 **do not**, and cannot, **represent handle(s)**, to anyone because they serve for **attachment** to a **pulley-** and/or **weight resistance system** (col. 2, lines 1 and 2; Figs. 2, 7, 10 and 13), **or for attachment of** either an elastic **resistance tube** 22/422 providing for the necessary resistance in a training (col. 4, lines 4-20; Figs. 1, 3, 6, 9, 12 and 14). Nowhere in Halsworth is there any suggestion that the yokes be used as handles.

Furthermore, **yoke** 18/418 is **not** required to be made of an **elastically stretchable** material like the handle set forth in claim 18. Halsworth remains silent about the material of which yoke 18/418 is made. However, from Figures 1-13 it can be gathered that **yoke 18** in form of a loop is presumably made of a **steel rope**, that is, a material which is **not stretchable**. Furthermore, from Figures 14-16 it is understood that **yoke 418** having a **semicircular shape** necessarily has to be **formed of a rigid, inherently stable material**. These observations to one of ordinary skill in the art also demonstrate that the function and effects of the elements in Halsworth and those of present claim 18 are entirely different.

If one of ordinary skill in the art were to use the yoke of Halsworth in combination with the aquatic exercise device of Beasley, what would he do. Following the suggestions of Halsworth, one would attach the aquatic device of Beasley to a yoke which would be attached to an elastic cord that is bound on the opposite end to a fixed point. Such a structure is far from the presently claimed sports device.

Hence, it is not seen how a combination of Beasley and Halsworth would teach or suggest the concept of the present invention set forth above.

The dependent claims are patentable for at least the same reasons.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of a combination of Beasley and Halsworth.

Claim 25 is rejected under 35 U.S.C. §103(a) over Beasley and Halsworth in view of Ladin (U.S. 5697792). Beasley and Halsworth are discussed in detail above. Ladin fails to make up for the deficiencies of Beasley and Halsworth. Thus, claim 25 is patentable for at least the same reasons as discussed above. Further, it is not seen why one skilled in the art would combine Ladin to the invention of claim 18; it is not seen why one would add a visual display for a swimmer (as disclosed in Ladin) to the sports device of claim 18 in view of the disclosures of the combination of these references.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Beasley, Halsworth and Ladin.

Claims 34 and 35 are rejected under 35 U.S.C. §103(a) over Beasley and Halsworth and further in view of Malynowsky (U.S. 5399139). Beasley and Halsworth are discussed in detail above. Malynowsky fails to make up for the deficiencies of Beasley and Halsworth. Thus, claim 34 is patentable for at least the same reasons as discussed above.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Beasley, Halsworth and Malynowsky.

If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105.

In view of the discussion above, Applicant respectfully submits that the pending application is in condition for allowance. An early reconsideration and notice of allowance are earnestly solicited.

Dated: February 2, 2011

Respectfully submitted,

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